

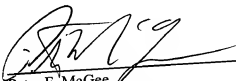
## REMARKS/ARGUMENT

Claims 1-9, 11-14, and 21-25 are pending.

The Examiner has refused to enter Applicant's amendment dated 5 September 2001 on the basis that the amendment proposes to add a "new" limitation to the independent claims. Applicant respectfully traverses.

The Examiner asserts that the step of treating cereal to reduce  $\beta$ -glucanase activity is a new limitation, yet the recited treatment step has been present since the claims originally were filed. See claim 6, for example. Indeed, the Examiner explicitly has recognized throughout the prosecution of the present application that the cereal is treated to inhibit  $\beta$ -glucanase activity. See the Office action dated 20 October 1999, paragraph no. 5 on page 3, for example, where the Examiner states that the "claims recite using a heat treated malted cereal whereby said malt is treated 'to destroy essentially all  $\beta$ -glucanase activity' ..." Subsequent Office actions contain similar language. In addition, inactivation of enzyme was discussed during the personal Examiner interview conducted on 16 February 2001. Thus, contrary to the Examiner's assertion, the limitation is not new, and previously has been prosecuted. Applicant respectfully requests entry and consideration of the amendment.

Respectfully submitted,



Peter F. McGee

Registration No.: 35,947

OSTROLENK, FABER, GERB & SOFFEN, LLP

1725 K Street, N.W.

Washington, D.C. 20006

Telephone: (202) 457-7785